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## NHRC-DNLU MOOT COURT PROPOSITION

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1. The Republic of Titania is a large Southeast Asian country, which has a population in the excess of a billion people. It has two main communities the Zars and the Thars, which account for roughly 60% and 40% of the total population respectively. Titania is the world's second-largest economy and is set to capture the top spot in the upcoming five years if it keeps up its current rate of growth by overtaking its neighbouring country Borz. Incidentally, Borz had colonised Titania for decades, until the latter won its independence seventy years ago. However, the after-effects of colonialism can be felt to this day in Titania, particularly with regards to how the Zars and Thars co-exist. Borz had sowed seeds of distrust between the two communities during the time of colonialism. Even post-independence, Titania has witnessed violent skirmishes between Zars and Thars quite a few times, with the last major nationwide uprising occurring seven years ago. Such conflicts have led to the destruction of public property, halting of industries and even loss of lives. Peace between the two communities is fragile and restored with great difficulty. Most Titanians still hold Borz responsible for the ensuing discord, and the relations
2. Jack Smith is a controversial figure from Borz. He is known to possess a deep distaste for Thars and has been linked to anti-Thar activities in Titania, by providing them with guidance and strategies. His messages have found resonance amongst some people of the Zar community.
3. An organisation called Thars For Titania (TFT) has been operating in Titania over the past couple of years and comprises mainly of Thars. The primary agenda for TFT is to establish the supremacy of Thars in the country. They are known to carry out widespread protests, and boycotts of Zars across the country. Their members are quite passionate about their cause and have at times used social media to advocate their views.
4. T-city is the most popular social media platform in Titania, with more than half of the citizens of Titania having accounts on this platform. Users can post captions, pictures, or, a combination of both, and can also re-share posts by others on their own feeds. Every post that is made, is directly in public domain, but users can also 'follow' each



other to get higher visibility of the posts of their followers. A user can also tag other users in his/her posts. 'Tagging' leads to more visibility of a post amongst the users who are following the tagged account. The instant messaging feature of the platform also allows users to send posts to up to ten other people at a time in the form of private messages. T-city also has the "Trending across Titania" feature, which provides a real-time list of the three major news items of the day. This list is curated from the posts which garner the maximum amount of user interaction (including likes, re-shares and private messaging). A considerable number of users rely on this feature for their daily news. T-city also displays an 'influencer score' for accounts which allows the users to obtain influencer points for the engagement that their posts draw. T-city has found from an internal review of the platform that this 'influencer score' feature has proven to be a hit amongst the youth of Titania.

5. T-city employs a team of human reviewers for reviewing posts which have been flagged as objectionable by the users. However, the only way to trigger this mechanism is by intimating the T-city human review team through email. This standard policy is made amply clear to users when they sign up on the platform. While signing up to the platform, the users are also made aware in the platform's Terms & Conditions that posts which the human reviewers find to be malicious, false, and harmful may be removed.
6. Action-Finance Times is a leading and reliable news channel in Titania and operates an account on T-city with the handle 'ACT-FT News'. The handle often posts news stories and occasionally re-shares stories from other accounts on the T-city platform.
7. Fiona Connelly is a popular political leader of the Zar community. She serves as the Minister of Reconciliation in the present Titanian Government. In that capacity, she is responsible for ensuring peace between the Zars and the Thars. However, she is a lightning rod for controversy given her outspoken views against TFT and Borz. Additionally, her ethics have been called into question in the past, with allegations of impropriety against her, and allegations that she favours her own community over the Thars. She has dismissed them as propaganda by the TFT. She is an active user of T-city and often posts images from her professional and personal life, which depict her as a competent and kind person.



8. Aaron Chacko is a young citizen of Titania and a member of the TFT. On 1<sup>st</sup> July he creates an account on T-city titled 'ACTFT' comprising of a combination of his initials and TFT. However, he has no connection with Action-Finance Times News. By 31<sup>st</sup> July, his account only has 20 followers. On 1<sup>st</sup> August he comes across a picture on T-city which had been posted by an account titled 'Patriot1'. It is a picture of two figures in a room, and it depicts a nude Fiona Connelly reaching out for a bag of cash being proffered by Jack Smith. Neither party seems aware that they are being photographed. There is no associated caption along with the picture.
9. Aaron reshares the picture and adds the caption to it "*Connelly finally shows her true colours? The anti-Thar politician has joined hands with the notorious Jack Smith to do his bidding. Is she selling out the country for cash?*"
10. Aaron also tags the ACT-FT News T-city handle and Fiona Connelly's T-city handle to the post and publishes it at 10 AM on 1<sup>st</sup> August. To his surprise, the post goes viral, garnering 50,000 shares within the first one hour of posting. Users also send the post through private messages to each other, which leads to its wider circulation. The post also jumps to the top of 'Trending across Titania' lists. Aaron's post is also picked up by news outlets who run with it and highlight it.
11. At 2:00PM of the same day Action-Finance Times News releases a public statement disassociating themselves from the post and clarifying that they have no role to play in the post and they have no connection with the ACTFT handle. They also remove their tag from the post. At the same time Fiona Connelly's office also issues a statement declaring that the post has no basis in truth and that her face has been photoshopped over someone else's body in the picture.
12. In the aftermath of the post, there are demonstrations outside the office of Fiona Connelly with dozens of people showing up for them. She also receives threatening phone calls from anonymous callers. At 4:00 PM of that very day, her office sends an email to the human review team of T-city with a dual request. The first request is to remove the mention of the post from the 'Trending across Titania' list, and the second is for the removal of ACTFT's post itself. They receive an auto-generated response, "Thank you for reaching out to us. We will review your complaint and revert as soon as possible with the necessary action taken. But, we will need you to please enter your



name in the field below and check this box to indicate that you are indeed the person depicted in the image.” Connelly’s office does not proceed further. Instead, Connelly’s legal counsel sends a letter to T-city on the morning of 2<sup>nd</sup> August at 11:00 AM threatening to sue them for defamation and breach of privacy if the post is not removed expeditiously. T-city removes the post and all its re-shares on 3<sup>rd</sup> August at 1:00 PM. At the time of removal of the post, it had garnered over 500,000 re-shares on T-city. At the time of its removal, the post was at the third position in the ‘Trending across Titania’ list.

13. Fiona Connelly continues to witness protests, and her inbox and posts on T-city are flooded with comments accusing her of conducting herself with impropriety. Skirmishes break out in different parts of the country between Thars and Zars. One such incident results in the death of two Thar community members at the hands of a Zar mob. In a few parts of the country, industries have been shut down due to the ongoing protests. On 7<sup>th</sup> August, Connelly resigns from her office without any public comment.
14. A criminal search warrant is served upon T-city and Aaron Chacko is identified as the person behind the ACTFT account. He is arrested and convicted of distributing a fake image of Fiona Connelly and breaching her privacy for which he is sentenced to one year imprisonment and no fine. He is also convicted of inciting hateful speech and violence, or being reckless of the same, through false information and misrepresentation, for which he is ordered to a fine of INR 50,000.
15. T-city is prosecuted and convicted of publishing and distributing a fake image of Fiona Connelly leading to her breach of privacy and a penalty of INR 100,000 is imposed in lieu of the same. It is also charged with communicating and facilitating the spread of false information and delaying in expeditiously taking down the false information and a further penalty of INR 100,000 is imposed on it.

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16. At his trial, Chacko states that he was under the impression that he had heard that Action-Financial Times News was about to break the story and he also wanted to post about it beforehand to maximise his influencer score. While surfing through T-city, he came across the image of Connelly and Jack Smith, which he decided to use to “show the actions of Fiona Connelly”.



17. It was found during the court proceedings that the image had been skilfully doctored, and Connelly's face had been photoshopped over the body of another person. The body of the other person had been obtained from a pornographic site and had been added to the picture of Jack Smith in the room. The account Patriot1 had posted the picture on 4<sup>th</sup> July. The bio of the account read "Only for laughs". The user behind the account could not be traced, as the account was deleted on 5<sup>th</sup> August.

18. The Supreme Court of Titania, which has discretionary review has agreed to hear the appeals from Aaron Chacko and T-city. They have contended that the liability imposed on them is an unreasonable restriction on their freedom of speech and expression. For the purposes of this given proposition, the Constitution of India, and the Indian Information Technology (IT) Act and its associated IT Rules, and the provisions of the Indian Penal Code dealing with Defamation are applicable to the Republic of Titania. Based on the appeals, the Supreme Court of Titania has framed the issues along the following lines:

**Issue 1:** Whether Titania's prosecution of Aaron Chacko violates the relevant legal provisions?

**Issue 2:** Whether Titania's prosecution of T-city violates the relevant legal provisions?

MOOT COURT COMMITTEE  
DHARMASHASTRA  
NATIONAL LAW UNIVERSITY